

Proposed Amendment and Response to Office Action
Application No. 09/839,840

REMARKS

In the Office Action dated August 25, 2004, claims 1, 3-15, and 17-20 were considered. The Office Action rejected claims 1, 3-8, 10-13, 15, and 17-20 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,941,168 issued to Kelly, Jr. ("Kelly, Jr."), and rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over Kelly, Jr. in view of U.S. Patent No. 6,396,920 issued to Cox et al. ("Cox"). According to the Office Action, claim 14 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Applicant hereby amends claims 1, 3, 4, 6-9, 11, 12, 15, 17, 18, and 20. The amendments to independent claims 1 and 15 are supported by the specification, for example at page 12. The amendments to independent claim 8 are supported by the specification, for example at pages 12, 18, and 19. The amendments to independent claim 9 are supported by the specification, for example at pages 9, 18, and 19. Dependent claims 3, 4, 6, 7, 11, 12, 17, 18, and 20 are amended to make their wording consistent with the wording of the independent claim from which they depend. Any required support therefor can be found in the specification, in the drawings, and in the claims as originally-filed. Applicant respectfully submits that no new matter is entered by the present amendments.

Claims 1, 3-8, 10-13, 15, and 17-20 Distinguish over Kelly, Jr.

Claims 1, 3-8, 10-13, 15, and 17-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Kelly, Jr. Applicant respectfully submits that amended independent claims 1, 8, and 15 patentably distinguish over Kelly, Jr. Claims 3-7, 10-13, and 17-20 depend, either directly or indirectly, from either amended independent claim 1 or amended independent claim 15 and, as such, Applicant respectfully submits that those claims are also patentable over Kelly, Jr. Accordingly, Applicant respectfully requests that the Examiner pass these claims, as amended, to allowance.

Kelly, Jr. teaches an automated telephone dialing system for recognizing electronically whether a called party is a human subject or an automated telephone answering device. See Abstract. During the process of determining the presence or absence of a recording, the system can play a first voice message or prompt to the answering party. See Col. 6, ln. 24 - ln. 26, and

FIG. 7, Step 210. See also Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. Depending upon how the answering party responds to the audio instruction, the system determines if the respondent is either human or machine. See Col. 2, ln. 30 – ln. 34.

The system disclosed in Kelly, Jr. can, for example, play a first voice message to the effect of “One moment please . . .” See Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210. Following this playing of the first voice message, the system can then call a Silence Detection Operation. See Col. 6, ln. 27 – ln. 28, and FIG. 7, Step 214. If the system detects a pre-determined amount of continuous silence, the called party is determined to be a live person; otherwise, if there is audio present for most of the time following the playing of the first voice message, the called party is determined to be a telephone answering device. See Col. 6, ln. 29 – ln. 40.

The first voice message played by the system disclosed in Kelly, Jr. can, alternatively, request a called party to press a specific dial tone. See Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. See also Col. 3, ln. 46 – ln. 57. If the system detects the requested dial tone, the called party is determined to be a live person; otherwise, the called party is determined to be a telephone answering device. See Col. 8, ln. 1 – ln. 8 and FIG. 9.

Applicant’s amended independent method claims 1 and 8 each recite “performing echo cancellation on the outbound call,” and Applicant’s amended independent claim 15 recites a voice message server that operates to “perform echo cancellation on the outbound call.” Kelly, Jr. fails, however, to teach or suggest these limitations.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw any rejections of amended independent claims 1, 8, and 15 based on Kelly, Jr. Because claims 3–7, 10–13, and 17–20 depend, either directly or indirectly, from either amended independent claim 1 or 15, Applicant respectfully submits that these claims are allowable as well.

Claim 9 Distinguishes over Kelly, Jr. and Cox Does Not Remedy the Defects of Kelly, Jr.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kelly, Jr. in view of Cox. Applicant respectfully traverses this rejection, as applied to amended independent claim 9.

Applicant’s amended independent claim 9 recites “requesting, by a voice message server, a specific speech input from the intended Recipient of the voice message” and “determining that

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the telephone line pick-up was by a live person when the requested specific speech input is received, at the voice message server, from the intended Recipient of the voice message.” Applicant respectfully submits that both Kelly, Jr. and Cox fail to teach or suggest these claim limitations.

Specifically, as discussed hereinabove, Kelly, Jr. only discloses a system that plays a voice message to the effect of “One moment please . . .,” see Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210, or that requests, in the alternative, a called party to press a specific dial tone. See Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. Kelly, Jr. does not disclose, however, requesting a specific speech input from the called party and, consequently, does not disclose determining that the called party is a live person when the specific speech input is received.

Cox teaches systems for providing directory assistance services. See Col. 1, ln. 19 – ln. 20. A caller who requests directory assistance services is connected to an operator. See Abstract. After determining the telephone number desired by the caller, the directory assistance operator proceeds to initiate a call to the desired party and connects the new outgoing call to the original caller. See Col. 1, ln. 59 – ln. 63. If a busy signal is detected or the called party does not answer the phone, the caller may leave the called party a voice message. See Col. 2, ln. 37 – ln. 43, and Col. 3, ln. 30 – ln. 36. The directory assistance service will thereafter attempt to contact the called party to automatically deliver the caller’s message. See Col. 2, ln. 57 – ln. 61.

In delivering the caller’s message, a voice response unit of the directory assistance service can determine whether the called party is a live person or an answering machine / automated answering service. See Col. 16, ln. 66 – Col. 17, ln. 3. Contrary to what is required by Applicant’s amended independent claim 9 however, Cox does not teach or suggest making this determination by first requesting from the called party a specific speech input and then concluding the telephone line pick-up to be by a live person when the requested specific speech input is received from the called party. Rather, Cox’s voice response unit makes no request for a specific speech input from the called party; it simply determines whether the called party is a live person or an answering machine / automated answering service by examining the energy and duration of the voice response when the call is answered. See Col. 17, ln. 11 – ln. 30.

Applicant respectfully submits that the passages cited by the Examiner in Cox (*i.e.*, Col. 17, lines 11–30, and Col. 19, lines 45–46) are unrelated to one another and, even if they were

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related to one another, fail to teach or suggest the limitations required by Applicant's amended independent claim 9. Specifically, Col. 17, lines 11–30, disclose, as described hereinabove, that Cox's voice response unit determines whether the called party is a live person or an answering machine / automated answering service by examining the energy and duration of the voice response when the call is answered. For their part, Col. 19, lines 45–46, do not disclose requesting from a called party, for the purposes of determining whether the called party is a live person or an answering machine / automated answering service, a specific speech input. Rather, Col. 19, lines 45–46, simply ask a caller to "press the one key or speak the word "one" to leave a message for this non-answering party." Applicant respectfully submits that this latter passage has nothing to do with requesting a specific speech input from a called party to determine whether the called party is a live person or an answering machine / automated answering service.

To summarize, Applicant has hereby amended independent claim 9 to clarify that the Applicant's voice message server requests "a specific speech input from the intended Recipient of the voice message" for the purposes of "determining that the telephone line pick-up was by a live person when the requested specific speech input is received, at the voice message server, from the intended Recipient of the voice message." Both Kelly, Jr. and Cox fail to teach or suggest such limitations. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of amended independent claim 9 based on the combination of Kelly, Jr. and Cox.

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CONCLUSION

In light of the foregoing, Applicant submits that claims 1, 3-15, and 17-20 are in condition for allowance. Accordingly, Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection and objection, and allowance of claims 1, 3-15, and 17-20 in due course.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Respectfully submitted,

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